

**STATE OF GEORGIA
COUNTY OF FULTON
CITY OF SOUTH FULTON**

ORDINANCE No. 2017-025

A proposed ordinance introduced by Mayor Pro Tem Rowell

AN ORDINANCE TO COMPLY WITH O.C.G.A. §50-18-70, *ET SEQ.*; DESIGNATING AN “OPEN RECORDS OFFICER” AND “ASSISTANT OPEN RECORDS OFFICER(S)” FOR THE CITY OF SOUTH FULTON; DEFINING THE DUTIES AND COMPENSATION THEREOF; PROVIDING FOR PUBLIC RECORD REQUESTS TO BE SERVED UPON THE OPEN RECORDS OFFICER OR, IN THE OFFICER’S ABSENCE OR UNAVAILABILITY, UPON AN ASSISTANT OPEN RECORDS OFFICER; PROVIDING FOR THE MANNER OF SERVING PUBLIC RECORDS REQUESTS ON THE OPEN RECORDS OFFICER; PROVIDING FOR NOTICE OF THE CITY’S OPEN RECORDS PROCEDURES; PROVIDING REASONABLE CHARGES FOR COMPLIANCE WITH PUBLIC RECORDS REQUESTS; TO REPEAL CONFLICTING CODE PROVISIONS, ORDINANCES, OR PORTIONS THEREOF, IN CONFLICT WITH THE FOREGOING; TO ESTABLISH AND EFFECTIVE DATE; AND FOR OTHER PURPOSES

WHEREAS, Georgia’s Open Records Law, O.C.G.A. §50-18-70, et seq., was enacted to establish new procedures for local governments (defined therein as “agencies”) to comply with said law and to provide greater transparency in making public records available to the public for inspection and copying, which instills greater public trust in government;

WHEREAS, under the amended law, agencies may designate one or more “Open Records Officers” for the purpose of accepting service of written requests in order to assure timely response if made to the proper officer, who has been trained in the law and procedures for public records compliance;

WHEREAS, the City of South Fulton, a Georgia municipal corporation, is an “agency” as defined at O.C.G.A. §50-18-70; and

WHEREAS, this City Council adopts as City public policy the statement of the General Assembly found at O.C.G.A. §50-18-70 (a);

THE CITY COUNCIL OF THE CITY OF SOUTH FULTON HEREBY ORDAINS as follows:

Section 1: The City of South Fulton Code of Ordinances, Title 1, Administration, Chapter 7, Open Records, shall be as follows:

Title 1: Administration

Chapter 7: Open Records

Section 1-7001: Short Title.

This Article shall be known as the “City of South Fulton Open Records Ordinance.”

Section 1-7002: Records Officer.

There is hereby created the appointment of the City’s Open Records Officer. The Open Records Officer may designate, in writing, Assistant Open Records Officer(s) as required to perform the duties of his or her office. Before undertaking the duties of the office, the Open Records Officer and Assistant Open Records Officers shall take an oath, in writing, to diligently perform such duties. The Open Records Officer shall serve at the pleasure of City Manager. The Open Records Officer may be an existing employee of the City.

Section 1-7003: Duties and Procedures.

- (a) It shall be the duty of the Open Records Officer and his or her duly designated Assistant Open Records Officer(s) to accept written requests to inspect and copy public records, pursuant to O.C.G.A. §50-18-70, *et seq.*, and to produce to the requester all records responsive to a request within a reasonable amount of time not to exceed three (3) business days of receipt of a request, unless the time for response is extended in accordance with law.
- (b) No written request shall be deemed filed until served upon the Open Records Officer, by hand delivery to the Officer at the City of South Fulton, by certified United States mail return receipt requested, by statutory overnight delivery, or by email to openrecords@cityofsouthfultonga.gov.
- (c) Written requests served upon any other officer or employee of the City shall not be deemed filed, until the requester has filed his or her request, in writing, with the Open Records Officer.
- (d) In the absence or unavailability of the Open Records Officer, an Assistant Open Records Officer shall perform the duties of the Open Records Officer.
- (e) The absence or unavailability of a designated Open Records Officer shall not delay the City’s response to a properly served request

Section 1-7004: Request Response.

- (a) Upon receipt of a request, it shall be the duty of the Open Records Officer to promptly ascertain the availability of all public records responsive to the request

and to produce to the requester those records that can be located and produced within a reasonable time, not to exceed three (3) business days of receipt of a request. For purposes of computing the time within which a response must be made, the Open Records Officer shall not count the business day on which a request is received, nor any intervening Saturday, Sunday, or designated holiday on which City offices are closed for general business. Upon intake of a request, the Open Records Officer shall stamp the request with the date and time of receipt, and initial the request. In any instance where records are unavailable within three (3) business days of the request, it shall be the duty of the Open Records Officer to provide the requester with a written description of such records and a timeline for when the records will be available for inspection or copying and to provide the responsive records to the requester as soon thereafter as practicable. Such response shall also contain a good faith estimate of the cost to the requester for the search, retrieval, redaction, and production and copying of records.

- (b) It is the intent of the City Council that the Open Records Officer be accessible within City Hall during the normal hours of general operation of the City's administrative staff, i.e. 8:30 a.m. to 5:00 p.m. Monday through Friday, except on recognized holidays and those days when City Hall is closed. The Open Records Officer shall coordinate his or her work schedule with the Assistant Open Records Officers to assure coverage within City Hall during normal hours at all times when the Open Records Officer is scheduled to be absent or unavailable for extended periods of time. Backup procedures will be implemented by the City Manager to assure such coverage by Assistant Open Records Officers during the Open Records Officer's unplanned absence or unavailability.
- (c) By law, notice of the designation of Open Records Officers shall be posted on the official bulletin board at City Hall, in the legal organ of City, and on the City's website. In addition, City officers, department directors, and administrative staff will be instructed on how to assist and direct persons desiring to request inspection and copying of public records.
- (d) To further assist persons desiring to inspect records, a request form will be available at City Hall and on the City's website. The Open Records Officer shall confer with every officer or department manager of the City, as necessary, to ascertain the existence of public records responsive to a request (including electronically-stored information), and it shall be the duty of every City officer and department manager to confer with and provide records, or true and correct copies of the originals thereof, to the Open Records Officer promptly, time being of the essence. Upon receipt of a public record responsive to a request, the Open Records Officer shall determine, in consultation with the City Attorney, if the record is exempt from disclosure by order of a court of this state or by law; if the record is exempt from disclosure, the written response by the Open Records Officer shall set forth the specific legal authority under which withholding of

inspection of the record is claimed. The Open Records Officer shall maintain a log or other documentation of his or her due diligence to comply with a proper request.

Section 1-7005: Fees.

- (a) The Open Records Officer shall further have the duty to collect from a requester a reasonable charge for the search, retrieval, redaction, and production/copying of records, utilizing the most economical means available to identify and produce non-excluded records. The charge for the search, retrieval, or redaction of records shall not exceed the prorated hourly salary of the lowest paid full-time employee who, in the reasonable discretion of the Open Records Officer, has the necessary skill and training to perform the request; provided, however, no charge shall be made for the first quarter hour. In addition thereto, where certified copies of specific records are sought, the fees for certified copies prescribed by law shall apply; otherwise, a fee for the copying of records shall not exceed 10¢ per page for letter or legal size documents or, in the case of other documents and electronic records, the actual cost of reproducing the document or media on which the records or media are produced.
- (b) It shall be the right of the requester, at the time of inspection, to make photographic copies or other electronic reproductions of records, at his or her own expense, using suitable portable devices brought to the place of inspection. Whenever any person has requested to inspect and copy public records and received a written response estimating the cost of the search, retrieval, redaction, and production/copying of responsive records, and the City has actually incurred such costs but the requester fails to inspect or accept copies of the records, the Open Records Officer shall be authorized to collect such charges in any manner authorized by law.
- (c) In any instance in which the Open Records Officer has estimated costs in excess of \$25 for responding to a request, the Open Records Officer may defer the search, retrieval, redaction, and production/copying of the records until the requester has stated, in writing, his or her willingness to pay an amount equal to the estimate of costs. The Open Records Officer shall request prepayment of the estimated costs prior to beginning search, retrieval, redaction, production or copying of the records when the estimated costs exceed \$500 for the production.

Section 1-7006: Litigation.

Requests by civil litigants for records that are sought as part of or for use in any ongoing civil or administrative litigation against the City shall be made in writing and copied to counsel of record for the City contemporaneously with their submission to the City. The City shall provide, at no cost, duplicate sets of all records produced in response to the

request to the City's counsel of record unless the City's counsel of record elects not to receive the records.

Section 1-7007: Training.

- (a) The Open Records Officer and Assistant Open Records Officer(s) shall, prior to assuming the duties of their office, undergo a course of training in public records, Government in Sunshine management and specifically compliance with the Georgia Open Records Law, O.C.G.A. §50-18-70, *et seq.*, as approved by the City Manager, in consultation with the City Attorney.
- (b) It shall be the responsibility of the City Manager and the Open Records Officer, at least annually, to conduct a workshop for City officers and department directors on the minimum requirements and procedures for public records management and open records disclosure, including the penalties or civil fines that may be imposed for violating Georgia's Open Records law.

Section 2: Severability

In the event any portion of this ordinance shall be declared or adjudged invalid or unconstitutional, it is the intention of the City Council of the City of South Fulton, Georgia, that such adjudication shall in no manner affect the other sections, sentences, clauses or phrases of this ordinance which shall remain in full force and effect, as if the invalid or unconstitutional section, sentence, clause or phrase were not originally a part of the ordinance.

Section 3: Repealer

All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

Section 4: Effective Date

Unless specifically specified elsewhere in this Ordinance, the effective date of this Ordinance shall be immediately.

The foregoing Ordinance No. **2017-025** adopted on **October 10, 2017** was offered by **Mayor Pro Tem Rowell**, who moved its approval. The motion was seconded by Councilmember **khalid and Willis**, and being put to a vote, the result was as follows:

“SECOND READING”

	AYE	NAY
William “Bill” Edwards, Mayor	<hr/>	<hr/>
Catherine Foster Rowell, Mayor Pro Tem	<hr/> √	<hr/>
Carmalitha Lizandra Gumbs	<hr/> √	<hr/>
Helen Zenobia Willis	<hr/> √	<hr/>
Gertrude Naeema Gilyard	<hr/> √	<hr/>
Rosie Jackson	<hr/> √	<hr/>
khalid kamau	<hr/> √	<hr/>
Mark Baker	<hr/> √	<hr/>

THIS ORDINANCE adopted this 10th day of October 2017. CITY OF SOUTH FULTON, GEORGIA

“SECOND READING”



WILLIAM “BILL” EDWARDS, MAYOR

ATTEST:



MARK MASSEY, CITY CLERK



APPROVED AS TO FORM:



JOSH BELINFANTE, INTERIM CITY ATTORNEY